

ORDINANCE NO. 2004- 009

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 12. ARTICLE III, DIVISION 1, OF THE PALM BEACH COUNTY CODE (CODIFYING ORDINANCE 98-21, AS AMENDED) RELATING TO FIREWORKS AND SPARKLERS; PROVIDING FOR DROUGHT RESTRICTIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is deemed necessary to protect the lives and property of the people of Palm Beach County, Florida, through regulatory measures designed and intended to reduce personal injury and property damage and minimize the possibility of fires and the creation of fire hazards; and

WHEREAS, the Board of County Commissioners has determined that the public health, safety and welfare is promoted by authorizing the County Fire Marshal to prohibit the use of fireworks and sparklers under certain drought conditions if such use would create an imminent danger to life and property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

ARTICLE 1: Chapter 12, Article III, Division 1, of the Palm Beach County Code is hereby amended to add the following new section:

Sec. 12-39. Drought Restrictions.

Whenever the Keetch-Byram Drought Index average for Palm Beach County reaches 500 or more, the County Fire Marshal may issue an order prohibiting the use of fireworks and sparklers if the County Fire Marshal determines that the fire hazard created by such use would present an imminent danger to life and property. In making this determination, the Fire Marshal shall consider the level of the drought index, other weather factors such as wind, temperature, relative humidity and atmospheric stability, and the potential for, or existence of, brush fires. This prohibition shall continue until rescinded in writing by the County Fire Marshal. Notwithstanding the foregoing, public displays of fireworks shall not be prohibited if properly permitted in accordance with section 16-10 of the Palm Beach County Local Amendments to the Florida Fire Prevention Code (codified at Section 12-57 of the Palm Beach County Code), as may be amended or recodified from time to time, and conducted in compliance with all applicable laws and regulations, including NFPA 1123 ("Code for Fireworks Display") and Chapter 791, Florida Statutes. At a minimum, at least one fire truck and one fire inspector shall be on standby for each public display.

ARTICLE 2: REPEAL OF LAWS IN CONFLICT

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

ARTICLE 3: SAVINGS CLAUSE

Notwithstanding anything herein to the contrary, all provisions of Chapter 12, Article III, Division 1, of the Palm Beach County Code that are amended or repealed by this Ordinance are hereby specifically preserved, and shall remain in full force and effect, as enacted prior to this Ordinance for the limited purpose of enforcing any alleged violations of said code provisions which occurred prior to their amendment or repeal hereunder.

ARTICLE 4: SEVERABILITY

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

ARTICLE 5: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "division", "section", "article", or other appropriate word.

ARTICLE 6: EFFECTIVE DATE

The provisions of this ordinance shall become effective upon the filing of a certified copy of this Ordinance with the Department of State or on June 15, 2004, whichever occurs later.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the 18 day of May, 2004.

DOROTHY H. WILKEN, Clerk

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: Linda C. Hickman
Deputy Clerk

By: Karen T. Marcus
Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: Sharm Burrows
County Attorney

FILED with the Department of State on the 25 day of May, 2004.

G:\WPDATA\ENG\SBURROWS\Fire-Rescue 2004\Fireworks ordinance- Drought Restrictions FINAL

STATE OF FLORIDA, COUNTY OF PALM BEACH
DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on May 18, 2004
DATED at West Palm Beach, FL on 6/14/04
DOROTHY H. WILKEN, Clerk
By: Wanda Brown D.C.